

Questions and Answers:

Q: I wanted to ask for your input regarding whether the Mass Farm to School Project should apply again for Specialty Crops funding for the Worcester Kindergarten Initiative? This would be the third year that Farm to School applied for this funding, and Kelly and I are uncertain whether we can apply at all... and if we can, would that be a favorable submission, or not terribly likely to get approved.

A: As long as the initiative has a new element, you could apply again.

Q: I have a budget question: our proposed project involves some trademark issues, for which we will need to hire an experienced patent attorney, at a much higher rate than the \$65 per hour. Should I base the budget on 1) billable hours; 2) a monthly retainer; or as a separate category marked "legal fees?"

A: You will need to justify why the attorney's rate is above the \$65 by getting quotes from three comparable contractors. Or you can demonstrate that due to the complexity or uniqueness of the project, the pool of available and qualified contractors is limited. Therefore, the selected contractor's specialized qualifications necessitate hiring at a rate beyond a GS-14 step 10. This will be considered a contractual service.

Q: What is allowable for leases / renting farm land for a research project?

A: The cost to rent/lease land is considered allowable as direct costs. Also, SCGBP funds could be used to pay a specialty crop grower as a consultant for the use of their land, however there are terms you must adhere to. Here they are:

Rental costs of buildings and equipment.

Subject to the limitations described in subparagraphs 43.b. through d. of this appendix, rental costs are allowable to the extent that the rates are reasonable in light of such factors as: Rental costs of comparable property, if any; market conditions in the area; alternatives available; and, the type, life expectancy, condition, and value of the property leased. Rental arrangements should be reviewed periodically to determine if circumstances have changed and other options are available.

Rental costs under "sale and lease back" arrangements are allowable only up to the amount that would be allowed had the non-profit organization continued to own the property. This amount would include expenses such as depreciation or use allowance, maintenance, taxes, and insurance.

Rental costs under "less-than-arms-length" leases are allowable only up to the amount (as explained in subparagraph 43.b. of this appendix) that would be allowed had title to the property vested in the non-profit organization. For this purpose, a less-than-arms-length lease is one under which one party to the lease agreement is able to control or substantially influence the actions of the other. Such leases include, but are not limited to those between divisions of a non-profit organization; non-profit organizations under common control through common officers, directors, or members; and a non-profit organization and a director, trustee, officer, or key employee of the non-profit organization or his immediate family, either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest. For example, a non-profit organization may establish a separate corporation for the sole purpose of owning property and leasing it back to the non-profit organization.

Rental costs under leases which are required to be treated as capital leases under GAAP are allowable only up to the amount (as explained in subparagraph b) that would be allowed had the non-profit organization purchased the property on the date the lease agreement was executed. The provisions of Financial Accounting Standards Board Statement 13, Accounting for Leases, shall be used to determine whether a lease is a capital lease. Interest costs related to capital leases are allowable to the extent they meet the criteria in paragraph 23 of this appendix. Unallowable costs include amounts paid for profit, management fees, and taxes that would not have been incurred had the non-profit organization purchased the facility.

Q: What is the allowable overhead?

A: No overhead or indirect is allowed.

Q: Can barley for malt be considered under this grant?

A: No, since barley is an ineligible crop.